**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (L) NO.606 OF 2007**

Mansingka Industries Ltd. .. Petitioner
V/s
The Tax Recovery Officer
Range 1(2), Mumbai & Ors. .. Respondents

Mr.V.H.Patil with Asifa Khan for the Petitioner.
Mr.Ashok Kotangale for the Respondents.

**CORAM : DR.S.RADHAKRISHNAN & V.C.DAGA, JJ.**

**DATE : 20th March, 2007.**

**P.C.:**

1. Heard the learned Counsel for the parties. By this Petition, the Petitioner is challenging the proposed auction of the prodperties which is scheduled on 26th/29th March, 2007. The main contention of the Petitioner is that the recovery is only with regard to interest alleged to be payable on income tax. According to the Petitioner the Respondents are seeking to recover interest of Rs.1.87 crores and the properties which are sought to be sold are worth Rs.5.78 crores.

2. The learned Counsel for the Petitioner has pointed out that the application of the Petitioner with regard to waiver of interest is still pending with the Respondent No.4 - Commissioner of Income Tax, which has not yet been decided.

3. The learned Counsel for the Petitioner states that, without prejudice to the rights and contentions of the

Petitioner, the Petitioner is ready and willing to deposit Rs.25 lakhs with the Respondent No.4 within a period of two weeks from today.

4. In view of the aforesaid submission of the learned Counsel for the Petitioner, we direct the Petitioner to deposit Rs.25 lakhs with the Respondent No.4 within a period of two weeks from today. The Respondent No.4 shall decide the pending application of the Petitioner with regard to the waiver of interest as expeditiously as possible within a period of eight weeks from today.

5. The aforesaid auction which is scheduled to be held on 26th/29th March, 2007 shall stand stayed for a period of ten weeks from today.

6. Mr.Patil, the learned Counsel for the Petitioner has pointed out that there are in fact four properties of which the auction is proposed to be held. Therefore it is made clear that in the event the Respondents were to recover any dues, the auction shall be with regard to the property one after another subject to the satisfaction of their dues. In other words if the sale proceeds of one property does not satisfy the dues, then only the auction of another property should be held.

7. The learned Counsel for the Petitioner states that the Petitioner is not pressing the issue with regard to the reference made to BIFR, for want of material to show

that the reference has been duly registered.

8. Writ Petition stands disposed of accordingly.

9. Issuance of certified copy is expedited.

**(V.C.DAGA, J.)** **(DR.S.RADHAKRISHNAN,J.)**